

***IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 17th January, 2011.

+ **W.P.(C) 4155/2010 & CM No.8256/2010 (for stay)**

% **PREM SINGH & ORS.** **Petitioners**
Through: Mr. N.S. Dalal & Mr. D.P. Singh,
Advocates

Versus

GOVT. OF NCT OF DELHI & ANR. **Respondents**
Through: Ms. Sana Ansari, Advocate for Ms.
Zubeda Begum, Advocate for R-1.
Mr. O.P. Saxena, Advocate for R-2.

CORAM :-

HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW

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| 1. | Whether reporters of Local papers may be allowed to see the judgment? | No |
| 2. | To be referred to the reporter or not? | No |
| 3. | Whether the judgment should be reported in the Digest? | No |

RAJIV SAHAI ENDLAW, J.

1. The 106 petitioners claiming to be residents of Jhuggi Jhopri Cluster, Bandhu Camp, Pocket 5&6, Basant Kunj, New Delhi-110070 have filed this petition for prohibiting the respondents from dislocating them till relocation in accordance with the Policy. Notice of the petition was issued and the respondents restrained from demolishing the Jhuggis of the petitioners.

2. On 30th July, 2010, the counsel for the Delhi Urban Shelter Improvement Board being the successor of the Slum & J.J. Department of the MCD informed that survey had been conducted to determine the

eligibility for relocation. He was as such directed to inform as to which of the petitioners had been found eligible.

3. The counsel for the Delhi Urban Shelter Improvement Board on 1st November, 2010 informed that only the petitioners No.1, 10, 22, 51, 62, 83 & 84 had been found eligible. The matter was adjourned on the insistence of the counsel for the petitioners that the same should be stated on affidavit. Since the affidavit had not been filed inspite of several opportunities, the same was directed to be filed subject to payment of costs of ₹5,000/-.

4. The costs have not been paid. For the reason explained by the counsel for the Board, the order imposing costs is recalled.

5. The Board has filed the status report which merely reiterates that in the survey conducted, the petitioner Nos.1, 10, 22, 51, 62, 83 & 84 only were found eligible.

6. The counsel for the petitioners contends that it is the case of the petitioners that the petitioners were found in occupation of the said cluster even in the survey conducted on 16th June, 2008; that the petitioners are thus entitled to relocation; that the status report filed by the Board does not state any reason as to why the other petitioners have not been found eligible. On enquiry, as to whether any document has been filed in this regard, it is stated that the record of the survey would be with the Board only and the petitioners are not in possession of any document in this regard. It is further stated that in the counter affidavit filed the said plea has not been denied.

7. The counsel for the Board states that even if the petitioners were

found to be in possession at the time of survey in the year 2008, it would still not make them eligible for relocation inasmuch as the requirement is of having been in possession prior to the cut off date of the year 1998 revised to 31st March, 2002. He states that for determination of the same, the claimants are to show the verified ration cards and the Voter Identity Card of prior to the cut off date as well as proof of income being below ₹60,000/- per annum. He states that none of the other petitioners satisfied the said requirement and thus were not found eligible. The counsel for the petitioners states that the other remaining petitioners are also in possession of the said documents and which have not been considered by the Board and / or no reason has been given by the Board for rejecting the claims of the petitioners.

8. Undoubtedly, there is no speaking order of the Board rejecting the claims of the remaining petitioners.

9. The Board is expected to deal with the case of each of the petitioners and if not satisfied of entitlement for relocation, to pass a reasoned order therefor stating as to whether the documents were produced or not and if produced as to the reason for non acceptance thereof. I have enquired from the counsels whether the scheme for relocation provides for any remedy against the order rejecting the claim for relocation. Both the counsels state that there is no such provision.

10. Be that as it may, the fact remains that the Board would be required to conduct the enquiry aforesaid and to pass a speaking order on the claims of

each of the remaining petitioners.

11. Though the counsels state that the present writ petition be kept pending till the enquiry aforesaid is completed by the Board but it is felt that no purpose thereby would be served inasmuch as if the petitioners remain aggrieved by the decision to be taken by the Board, they would then have to challenge the said decision in the context of the reasons given for rejection and it will then also have to be seen whether the challenge is maintainable by way of a writ petition or by way of a suit.

12. The writ petition is therefore disposed of with the direction to the Board to consider the claims of each of the petitioners and to pass reasoned order thereon. The petitioners to appear before the Deputy Director (Survey) of the Board first on 10th February, 2011 at 1100 hours alongwith all the documents on which they seek to rely and thereafter on such other dates as may be given. The said exercise be completed within six months therefrom. The Election Office, Rationing Office and the concerned SDM are directed to cooperate with the Board in completing the enquiry within the said time. Till then the petitioners be not dispossessed from their jhuggis.

No order as to costs.

Dasti under signature of the Court Master to the counsel for the parties.

**RAJIV SAHAI ENDLAW
(JUDGE)**

17th January, 2011/gsr